

TAXPAYERS'
APPEAL RIGHTS
OF OFFICE AUDIT
ADJUSTMENTS

Procedures in Appealing Office Audit
Adjustments of Income, Franchise, Sales
and Use, Withholding or Excise Tax
Returns or Homestead Credit or Farmland
Preservation Credit Claims

As a Wisconsin taxpayer, you have the right to appeal if you disagree with any office audit adjustment concerning you. This brochure tells you how, but first it may interest you to know a little about the office audit, assessment, and refund process.

I. THE OFFICE AUDIT, ASSESSMENT, AND
REFUND PROCESS

Following are the usual steps the Wisconsin Department of Revenue (department) follows in conducting an office audit and in making an assessment or refund adjustment:

- A. The department examines tax returns and/or credit claims to check the correctness of the items reported.
- B. The department may request more information or receipts to clarify or support some items.
- C. The department may then decide that an adjustment to the returns is necessary, with the result that the taxpayer owes an additional amount or receives a refund.
- D. The department then sends a notice of amount due to the taxpayer explaining the amount due or a notice of refund explaining the refund to be issued. The notices show the amount of tax, interest, penalty (if any) and explain the taxpayer's appeal rights.

II. YOUR OPTIONS AFTER RECEIVING A
NOTICE OF REFUND OR NOTICE OF
AMOUNT DUE

A. Notice of Refund

If you **agree** with the notice, you need do nothing. If the notice indicates that you are due a refund, you will automatically be issued that refund.

If you **disagree** with the notice, you must file an appeal with the department within **60 days** of receiving the notice.

Note: If the net result of a multiple year office audit is a notice of refund, and there are one or more tax years beginning on or after January 1, 2000 that resulted in an assessment included in the notice, a claim for refund may be made for the assessment year(s) within four years from the date on the notice of refund. See Part VII for information on how to file a claim for refund of a paid assessment.

Note: For sales and use tax, you **must** file an appeal with the department within 60 days of receiving the notice of refund. There is **no provision to file a claim for refund** for assessment years included in a net refund.

B. Notice of Amount Due

If you **agree**, you need do nothing except pay the indicated amount by the due date.

If you **disagree**, you may do one of the following:

- 1. Pay the full amount without filing any appeal. You can then consider whether to file a claim for refund later. **Note:** You may file a claim for refund of a paid assessment up to two years from the date of the notice of amount due if the additional tax assessed was for any taxable year before 2000. You may file a claim for refund of a paid assessment up to four years from the date of the notice of amount due if the additional tax assessed was for any taxable year after 1999. Filing a claim for refund is explained in Part VII.

Exception: For sales and use tax, you still have only **two** years from the date of the notice of amount due if the additional tax assessment was for any taxable year after 1999.

- 2. File an appeal with the department **within 60 days** of receiving the notice. This is explained in Part IV.

Note: To stop the accumulation of interest on amounts owed, you may either:

- 1. **Deposit** the full amount of an additional assessment, including interest and penalty, if any, with the department when filing the appeal or at any time while the appeal is pending.

You will be paid interest at 9% per year on any portion of the deposit which is later refunded to you.

- 2. **Pay** any portion of an assessment with which you agree. Such payment shall be considered an admission of the validity of that portion of the assessment and may not be recovered in an appeal or any other action or proceedings.

Caution: If the 60-day period for filing an appeal has passed, paying the notice of amount due and filing a claim for refund on an amended return form is the only option available to contest the assessment.

Note: The imposition of interest is required by law and the imposition of normal interest is not appealable.

III. THE APPEAL PROCESS

You have five levels of appeal available to you that must be taken in this order:

- A. Wisconsin Department of Revenue.
- B. Wisconsin Tax Appeals Commission.
- C. Circuit Court.
- D. Court of Appeals.
- E. Wisconsin Supreme Court.

Note: With regard to taxpayers who file joint individual income tax returns which the department adjusts, an appeal by one spouse is an appeal by both spouses. A spouse may appeal an assessment or a denial of a claim for refund issued with respect to a separate return filed by the other spouse. Either spouse may appeal an action relating to a joint return.

The department will notify spouses jointly that they may deposit with the department the amount of an additional assessment being appealed to stop the further accrual of interest. If the spouses have different addresses and if either spouse notifies the department in writing of those addresses, the department will send a duplicate notice regarding the deposit procedure.

IV. APPEAL TO DEPARTMENT OF REVENUE

Filing the appeal:

- A. The appeal must be in writing (preferably typed) and signed. It must state facts and reasons for disagreeing with the adjustments and include supporting documents. The department does not accept appeals by e-mail.
- B. The appeal must be mailed or faxed within 60 days after you received the notice of amount due, notice of refund, or refund claim denial.

Mail your sales and use tax appeals to: Wisconsin Department of Revenue, Sales Tax Office

Audit – Mail Stop 5-144, P.O. Box 8946, Madison, WI 53708-8946.

Mail your fuel, liquor, beer, cigarette and/or tobacco products tax appeals to: Wisconsin Department of Revenue, Mail Stop 5-107, P.O. Box 8900, Madison, WI 53708-8900.

Mail all other appeals to: Wisconsin Department of Revenue, Resolution Unit - Mail Stop 5-144, P.O. Box 8906, Madison, WI 53708-8906.

- C. The appeal must be received by the department no later than five days after the postmark date.

In the case of a notice of amount due, if you do not file an appeal within the required 60-day period the department's action is final and you must pay the amount due. Your only recourse then is to file a claim for refund of a paid assessment on an amended return form within two or four years of the assessment notice date, depending on the tax years and tax type involved.

In the case of a notice of refund, if you do not file an appeal of an adjustment, including an adjustment or denial of a credit, within the required 60-day period, the department's action is final and conclusive. No further refund is available on any subsequent claim on the adjusted issue(s).

Note: If the net result of a multiple year office audit is a notice of refund, and there are one or more tax years beginning on or after January 1, 2000 that resulted in an assessment included in the notice, a claim for refund may be made for the assessment year(s) within four years from the notice date on the notice of refund.

Note: For sales and use tax, you **must** file an appeal with the department within 60 days of receiving the notice of refund. There is **no provision to file a claim for refund** for assessment years included in a net refund.

If you have filed a claim for refund for a year for which the department may no longer issue an assessment, the department has the right to reduce your refund for tax that should have been reported or assessed, but wasn't, up to the total amount of the refund. If the department has assessed you tax and you have filed a timely appeal, you may have the right to reduce that assessment by any refund that could have been reported or claimed, but wasn't, up to the total amount

of the assessment. In both instances, the same year(s) or period(s) must be involved, as well as the same type of tax.

Your appeal may be handled:

- A. Through the mail.
- B. Through a conference (if you or we request it) in Madison, Milwaukee, Eau Claire, or Appleton.
- C. Through personal representation or through assistance from an attorney, accountant, or other representative.

The department's action on your petition for redetermination (appeal) could result in one of the following:

- no change to the original notice,
- a decrease in the amount of the original notice, or
- an increase in the amount of the original notice.

The department will notify you in writing of its decision.

V. APPEAL TO THE WISCONSIN TAX APPEALS COMMISSION

If you disagree with the decision from the department on your appeal, you may wish to go to the second level of appeal with the Wisconsin Tax Appeals Commission which is entirely separate from the department. Your appeal to the Wisconsin Tax Appeals Commission must be filed within **60 days** of receiving the department's decision.

Note: If you chose not to deposit the full amount due with the department to stop the accumulation of interest while your case was pending at the department, you may when appealing to the Wisconsin Tax Appeals Commission do one of the following:

- A. **Offer to deposit** total taxes and interest with the State Treasurer. The offer to deposit may be made at any time while the petition is pending before the Wisconsin Tax Appeals Commission or any court.
- B. **Pay** the portion of the assessment not under appeal.

Indicate your choice in your letter of appeal to the Commission.

VI. APPEAL TO THE COURTS: CIRCUIT, APPEALS, AND SUPREME

If you wish to go to the third level of appeal, you must

appeal to the circuit court within **30 days** of receiving the Commission's decision.

You or the department may afterward go on to the Court of Appeals and to the Wisconsin Supreme Court.

VII. HOW TO FILE A CLAIM FOR REFUND OF A PAID ASSESSMENT

For sales and use tax, **send** your amended return to: Wisconsin Department of Revenue, Sales Tax Office Audit – Mail Stop 5-144, P.O. Box 8906, Madison, WI 53708-8906.

For corporation franchise and income tax, **send** your amended return to: Wisconsin Department of Revenue, Corporation Office Audit, Mail Stop 5-144, P.O. Box 8908, Madison, WI 53708-8908.

For excise taxes, **send** your amended return to: Wisconsin Department of Revenue, Mail Stop 5-107, P.O. Box 8900, Madison, WI 53708-8900.

For all others, **send** the appropriate amended return to the Wisconsin Department of Revenue, Audit Bureau, P.O. Box 8991, Madison, WI 53708-8991.

Include your name, address, and social security number or account number or corporation identification number.

Identify the tax year disputed and state the facts and reasons for requesting the refund.

Caution: For tax years beginning before January 1, 2000 (1999 and prior tax years), the claim for refund must be filed on an amended return form within two years of the notice date on the notice of amount due.

For tax years beginning on or after January 1, 2000 (2000 and after tax years), the claim for refund must be filed on an amended return form within four years from the notice date on the notice of amount due.

Note: For sales and use tax, the claim for refund must still be filed within two years of the notice date.

If the net result of a multiple year office audit is a notice of refund, and there are one or more tax years beginning on or after January 1, 2000 that resulted in an assessment included in the notice, a claim for refund may be made for the assessment year(s) within four years from the date on the notice of refund.

Note: For sales and use tax, you **must** file an appeal with the department within 60 days of receiving the notice of refund. There is **no provision to file a claim for refund** for assessment years included in a net refund.

Any tax refunded will bear interest at 9% per year.

Note: A claim for refund may be made only if the assessment was paid and not protested by the filing of a petition for redetermination (appeal).

VIII. WHAT YOU CAN DO IF YOUR REFUND CLAIM IS DENIED

File an appeal with the department within **60 days** of receiving the denial notice as explained in Part IV above.

IX. NEED HELP?

For additional information or assistance, contact the DOR at (608) 266-2772.

Write ... For sales and use tax:
Wisconsin Department of Revenue
Sales Tax Office Audit - Mail Stop 5-144
P.O. Box 8906
Madison, WI 53708-8906

For excise taxes (fuel, liquor, beer, cigarette and/or tobacco products):
Wisconsin Department of Revenue
Mail Stop 5-107
P.O. Box 8900
Madison, WI 53708-8900

For all others:
Wisconsin Department of Revenue
Mail Stop 5-144
P.O. Box 8906
Madison, WI 53708-8906

FAX ... (608) 267-0834

E-Mail ...
Sales and Use Tax: sales10@dor.state.wi.us
Corporation Franchise and
Income Tax: corp@dor.state.wi.us
Excise Tax: excise@dor.state.wi.us
All others: income@dor.state.wi.us

Visit our web site ... www.dor.state.wi.us